1999 Country Reports on Economic Policy and Trade Practices
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PHILIPPINES

Key Economic Indicators

(Billions of U.S. Dollars unless otherwise noted)

	1997	1998	1999 1/
Income, Production and Employment:			
Nominal GDP	82.2	65.1	74.6
Real GDP Growth (pct) 2/	5.2	-0.5	3.0
Nominal GDP by Sector:			
Agriculture	15.4	11.0	13.1
Manufacturing	18.3	14.3	16.0
Services	40.4	33.7	39.0
Government 3/	10.0	8.4	9.5
Per Capita GDP (US$)	1,145	886	990
Labor Force (000s)	30,355	31,056	31,800
Unemployment Rate (pct)	8.7	10.0	9.5
Money and Prices (annual percentage growth):			
Money Supply Growth (M2) 4/	20.5	8.0	12.0
Consumer Price Inflation (pct)	5.9	9.7	7.2
Exchange Rate (Peso/US$ annual average)			
Interbank Rate	29.47	40.89	39.50
Balance of Payments and Trade:			
Total Exports FOB 6/	25.2	29.5	33.8
Exports to U.S. 7/	10.4	11.9	12.0
Total Imports FOB 6/	36.4	29.5	31.3
Imports from U.S. 7/	7.4	6.7	7.2
Trade Balance 6/	-11.1	-0.03	2.5
Balance with U.S. 7/	3.0	5.2	4.8
Current Acct. Surplus or Deficit/GDP (pct)	-5.3	2.0	6.0
External Public Sector Debt	27.0	30.3	32.0
Foreign Debt Service Payments/GDP (pct)	6.8	7.8	8.8
Nat’l Gov. Fiscal Surplus or Deficit/GDP (pct)	0.1	-1.9	-3.0
Gold and Foreign Exchange Reserves	8.8	10.8	15.5

Aid from U.S. (US$ millions) 8/	46.0	49.0	35.0	9/
Aid from Other Bilateral Sources (US$ millions) 8/	1,588.0	1,465.0	1,179.0	9/

1/ 1999 figures are full-year estimates based on data available as of October.

2/ Percentage changes based on local currency.

3/ Government construction and services gross value added.

4/ Growth rate of year-end M2 levels.

5/ 1994 base year starting 1997; 1988 base year for prior years.

6/ Merchandise trade.

7/ Source: U.S. Department of Commerce; exports FAS, imports customs basis; 1999 figures are estimates based on data available through August 1999.

8/ Inflows per Philippine government balance of payments data, excluding inflows from the U.S. Veterans Administration (USVA).

9/ Actual January-July 1999 figures.

Sources: National Economic and Development Authority, Bangko Sentral ng Pilipinas, Department of Finance.

1. General Policy Framework

The Philippines has a population of 75 million, growing at 2.3 percent yearly. Agriculture absorbs 40 percent of employment but contributes only 20 percent of GDP. Electronics, garments, and auto parts are the leading merchandise exports, but rely heavily on imported inputs. Overseas workers remittances, estimated at $5-6 billion yearly, are a major source of foreign exchange. The domestic savings rate is relatively low, compared to the rest of Asia, estimated at 20 percent of GNP in 1998.

Public finances has been a long-standing problem. After four consecutive fiscal surpluses (1994-97), the government is again running a large budget deficit, in part as a response to the Asian financial crisis. But revenues perennially suffer from weak tax administration and collection, and efforts to contain expenditures are hampered by the large share (over 70%) of "non-discretionary" expenditures such as payroll costs, interest payments and mandated transfers to local government units. Fiscal difficulties complicate government efforts to manage domestic interest rates, leading the government to rely more heavily on foreign borrowings.

The Aquino and Ramos administrations made significant progress in setting the stage for a higher and more sustainable growth path through economic liberalization and deregulation. President Joseph Estrada is trying to continue and expand the program pursued by his predecessors, but nationalist and vested interests pose obstacles to further reform.

2. Exchange Rate Policy

Current account transactions are fully convertible. There are no barriers to full and immediate capital repatriation and profit remittances, foreign debt servicing, and the payment of royalties, lease payments and similar fees. Foreign exchange rates generally evolve freely in the interbank market, although the Bangko Sentral ng Pilipinas (BSP – Central Bank) imposes limits on banks' foreign exchange positions. The depreciation of the peso during the Asian financial crisis (from Peso 26/dollar in June 1997 to Peso 40/dollar at present) has hurt the competitiveness of some U.S. exports.

3. Structural Policies

Prices are generally determined by market forces, although basic public services (such as transport, water and electricity) are regulated by the government. Government regulation of prices of "socially sensitive" petroleum products (i.e., liquefied petroleum gas, regular gasoline, and kerosene) ended in July 1998 with the full deregulation of the oil industry, but the government's National Food Authority remains a major factor in the market for rice and other agricultural products.

While progress in investment liberalization has been substantial, important barriers to foreign entry remain. Two “negative lists” outline where investment is restricted. Divestment requirements exist for firms seeking certain investment incentives. A number of other laws specify, or have the effect of imposing, local sourcing requirements.

Almost all products, including imports, are subject to a 10 percent value added tax. Certain products -- whether domestically manufactured or imported -- are subject to excise tax. The Philippines' Tariff Reform Program is gradually lowering applied duty rates on nearly all items, toward a goal of tariff rates of zero to five percent by 2004 for all items except sensitive agricultural products.

4. Debt Management Policies

Foreign debt (estimated at $48.1 billion as of June 1999) has been growing, but debt servicing is not a significant problem. The ratio of debt service payments to exports of goods and services was 13.2 percent during period Jan-July 1999, compared to 40 percent in the early 1980s. Medium and long-term loans comprise over 85 percent of external liabilities. Concessional credits from multilateral and official bilateral lenders account for about half of the country’s external debt.

The Philippines had four debt rescheduling rounds with official bilateral (Paris Club) creditors and did not exercise a fifth Paris Club debt rescheduling agreement. While the Philippines “graduated” from over three decades of International Monetary Fund (IMF) supervision in March 1998, a two-year IMF standby arrangement was agreed at the same time. The Government has indicated it may extend the arrangement. The Philippines has also succeeded in retiring or exchanging some of its earlier debt for instruments carrying longer maturities and more favorable terms, the latest being a $1 billion Brady bond exchange program concluded in October 1999.

The Central Bank requires prior approval of private sector debt guaranteed by the public sector or covered by forex guarantees issued by local banks; loans extended by foreign currency deposit units funded or collateralized by offshore loans and deposits; loans with maturities of over one year obtained by private banks and financial institutions for relending; and public sector foreign loans.

5. Significant Barriers to U.S. Exports

Tariffs: Imported items that are not locally produced generally face low tariffs, while imports that compete with locally-produced goods face high tariffs, generally up to 30 percent. Imports of finished automotive vehicles (completely built-up units) face a 40 percent tariff (scheduled to fall to 30 percent in 2000). The non-trade weighted average nominal tariff rate was 9.98 percent in 1999 and is scheduled to decline to 8.09 percent in the year 2000. Customs accounts for over 20 percent of government revenues. In January 1999, President Estrada signed E.O. 63 raising applied MFN tariff rates on a range of products including yarns, threads, fabric, apparel, and kraft liner paper. Rates on these items are scheduled to return to 1997 levels in 2000. Significant trade barriers hamper market access in agriculture. The Philippines maintains high tariff rates on sensitive agricultural products, including grains, livestock and meat products, sugar, certain vegetables, and coffee. Examples include feed grains, particularly corn (at an in-quota rate of 35 percent, and a 65 percent out-of-quota rate), sorghum (15 percent) and potatoes (in-quota rate of 45 percent, 60 percent out-of-quota). A number of particularly sensitive agricultural commodities are subject to tariff-rate quotas (TRQs), including live animals, fresh and chilled beef, pork, poultry meat, goat meat, potatoes, coffee, corn, and sugar. Rice is subject to a quantitative restriction.

Import Licenses: The National Food Authority (NFA), a government entity, is the sole importer of rice and continues to be involved in imports of corn. Fisheries Administrative Order (FAO) 195, series of 1999, issued by the Department of Agriculture, requires a license to import fresh, chilled, and frozen fish when intended for sale in local retail markets. Certain other items are subject to other import regulations, including firearms and ammunition, used clothing, sodium cyanide, chlorofluorocarbon (CFC) and other ozone-depleting substances, penicillin and derivatives, coal and derivatives, color reproduction machines, chemicals for the manufacture of explosives, pesticides, used motor vehicles, and used tires. In addition, as noted above, certain agricultural commodities are subject to minimum access volume tariff-rate quotas.

Excise Taxes: U.S. producers of automobiles and distilled spirits have raised concerns about certain discriminatory aspects of the Philippines' excise tax system. Excise taxes on distilled spirits impose a lower tax on products made from materials that are indigenously available (e.g., coconut, palm, sugar cane). The excise tax treatment of automotive vehicles is based on engine displacement, rather than vehicle value.

Services Barriers: Banking - May 1994 banking legislation permitted 10 new foreign banks to open branches in the Philippines. Foreign equity is limited to 60 percent ownership of either a new local subsidiary or an existing domestic bank. Regulations require that majority Filipino-owned domestic banks control at least 70 percent of total banking system assets.

Securities - Membership in the Philippine stock exchange is open to foreign-controlled stock brokerage firms that are incorporated under Philippine laws. Foreign ownership in securities underwriting companies is limited to 60 percent. Companies not established under Philippine law are not allowed to underwrite securities for the Philippine market, but may underwrite Philippine issues for foreign markets.

Insurance - Although foreign entry has been liberalized, capitalization requirements vary according to the extent of foreign equity. Only the Philippines' Government Service Insurance System can provide coverage for government-funded projects and BOT-funded projects. Regulations require all insurance/professional reinsurance companies operating in the country to cede to the industry-owned National Reinsurance Corporation of the Philippines at least 10 percent of outward reinsurance placements.

Professional Services - The Philippine Constitution reserves the practice of licensed professions to Philippine citizens. This includes, inter alia, law, engineering, medicine, accountancy, architecture, and customs brokerage.

Telecommunications - The Philippine Constitution limits foreign ownership in public utilities to 40 percent. Telecommunication firms are considered public utilities.

Shipping - Foreign-flagged vessels are prohibited from the carriage of domestic trade.

Express Delivery Services - Foreign air express couriers and airfreight forwarding firms must either contract with a wholly Philippine-owned business to provide delivery services, or establish a domestic company, at least 60 percent of which should be Philippine-owned.

Standards, Testing, Labeling, and Certification: Imports of products covered by mandatory Philippine national standards must be cleared by the Bureau of Product Standards (BPS). Labeling requirements apply to a variety of products, including pharmaceuticals, food, textiles and certain industrial goods. The Generics Act of 1988, mandates that the generic name of a particular pharmaceutical product appear above its brand name on all packaging.

Investment Barriers: The Foreign Investment Act of 1991 contains two "negative lists" that outline areas where foreign investment is restricted. "List A" restricts foreign investment in certain sectors because of constitutional or legal constraints. No foreign investment is permitted in mass media (including cable television), retail trade, processing of corn and rice, small-scale mining and private security agencies. Varying foreign ownership limitations cover, among others, advertising (30 percent), recruitment (25 percent), financing (60 percent), securities underwriting (60 percent), public utilities (40 percent), education (40 percent), and the exploration and development of natural resources (40 percent). Land ownership is reserved to Philippine citizens and corporations that are at least 60 percent owned by Philippine citizens. "List B" limits foreign ownership (generally to 40 percent) for reasons of public health, and safety and morals. This list also restricts foreign ownership to no more than 40 percent in non-export firms capitalized at less than $200,000.

Export Performance Requirements: Investment incentive regulations impose a higher export performance requirement for foreign-owned enterprises (70 percent of production should be exported) than for Philippine-controlled companies (50 percent). With the exception of foreign-controlled firms that export 100 percent of their production, foreign firms that seek incentives from the Board of Investments (BOI) must commit to divest to 40 percent ownership within 30 years or such longer period as the BOI may allow. The Philippines has requested an extension of the January 1, 2000, deadline to eliminate WTO-inconsistent local-content and foreign exchange requirements under its motor vehicle development program.

Local Sourcing Requirements: Outside of the investment incentives regime, investors in certain industries are subject to specific laws which require local sourcing. Executive Order (E.O.) 776 requires that pharmaceutical firms purchase semi-synthetic antibiotics from a specific local company, unless they can demonstrate that the landed cost of imported semi-synthetic antibiotics is at least 20 percent less than that produced by the local firm. E.O. 259 bans imports of soap and detergents containing less than 60 percent coconut-based surface active agents of Philippine origin, implicitly requiring local sourcing by soap and detergent manufacturers. Letter of Instruction (LOI) 1387, issued in 1984, requires mining firms to offer their copper concentrates to Philippine Associated Smelting and Refining Corp. (PASAR) -- a government-controlled firm until its recent privatization.

Government Procurement Practices: Contracts for government procurement are awarded by competitive bidding. Preferential treatment of local suppliers is practiced in government purchases of pharmaceuticals, rice, corn, and iron/steel materials for use in government projects, and in locally-funded government consulting requirements. The Philippines is not a signatory of the WTO Government Procurement Agreement.

Customs Procedures: The government has contracted a private firm, Societe Generale de Surveillance, to perform certain customs functions. Officials have not stated whether the contract will be renewed beyond December 31, 1999. Most imports valued at over $500 are permitted entry only when accompanied by a "Clean Report of Findings" issued by SGS. Refrigerated products are exempt. Certain goods require preshipment inspection in the country of export. The preshipment inspection requirement extends to exports to certain operations in free-trade zones. Customs valuation for determining dutiable value of imports is based on “export value,” which has resulted in unwarranted uplifts in the assessed dutiable value of many U.S. exports. The government says it will implement the “transaction value” method of customs valuation by January 1, 2000, in line with WTO obligations.

6. Export Subsidies Policies

Firms engaged in activities under the government’s “Investment Priorities Plan” may register with the Board of Investments (BOI) for fiscal incentives, including three to six year income tax holidays and a tax deduction equivalent to 50 percent of the wages of direct-hire workers for the first five years from registration. BOI-registered firms that locate in less-developed areas may be eligible to claim a tax deduction of up to 100 percent of outlays for infrastructure works and 100 percent of incremental labor expenses also for the first five years from registration. Export-oriented firms located in government-designated export zones and industrial estates registered with the Philippine Economic Zone Authority enjoy basically the same incentives as BOI-registered firms. Firms which earn at least 50 percent of their revenues from exports may register for certain tax credits under the "Export Development Act" (EDA), including a tax credit for imported inputs and raw materials not readily available locally (through December 31, 1999).

7. Protection of U.S. Intellectual Property

The Philippines is a party to the Berne and Paris Conventions, the WTO Agreement on Trade Related Aspects of Intellectual Property (TRIPs), and is a member of the World Intellectual Property Organization. The Philippines remains on the “Special 301” Watch List.

While substantial progress has been made in recent years, significant problems remain in ensuring consistent, effective protection of intellectual property rights (IPR). A new IP law (R.A. 8293), which took effect January 1, 1998, improves the legal framework for IPR protection. It provides enhanced copyright and trademark protection; creates a new Intellectual Property Office with original jurisdiction to resolve IPR infringement complaints; increases penalties for infringement and counterfeiting; and relaxes provisions requiring the registration of licensing agreements. Deficiencies in R.A. 8293 remain a concern. These include the lack of authority for courts to order the seizure of pirated material as a provisional measure without notice to the infringer; ambiguous provisions on the rights of copyright owners over broadcast, rebroadcast, cable retransmission, or satellite retransmission of their works; and burdensome requirements concerning licensing contracts. Legislation is pending to provide IPR protection for plant varieties and layout-designs of integrated circuits, in line with WTO obligations.

Enforcement: Enforcement agencies generally will not proactively target infringement unless the copyright owner brings it to their attention and works with them on surveillance and enforcement actions. Joint efforts between the private sector and the National Bureau of Investigation and Philippine Customs have resulted in a series of successful enforcement actions. While certain courts have been designated to hear IPR cases, little has been done to streamline judicial proceedings in this area, as these courts have not received additional resources and continue to handle a heavy non-IPR workload. In addition, IPR cases are not considered “major crimes,” and take a lower precedence in court proceedings. Because of the prospect that court action will be lengthy, many cases are settled out of court.

Patents: R.A. 8293 mandates a first-to-file system, increases the term of patents from 17 to 20 years from date of filing, provides for the patentability of micro-organisms and non-biological and microbiological processes, and gives patent holders the right of exclusive importation of their inventions.

Trademarks, Service Marks and Trade Names: R.A. 8293 no longer requires prior use of trademarks in the Philippines as a requirement for filing a trademark application. Also eliminated was the requirement that well-known marks be in actual use in Philippine commerce or registered with the government. Trademark infringement remains a serious problem in the Philippines.

Copyrights: R.A. 8293 expands IPR protection by clarifying protection of computer software as a literary work (although it includes a fair-use provision on decompilation of software), establishing exclusive rental rights, and providing terms of protection for sound recordings, audiovisual works, and newspapers and periodicals that are compatible with the WTO TRIPS Agreement. Software, music and film piracy remain widespread. The Business

Software Alliance estimates the 78 percent of business software in use in 1998 was unlicensed; the piracy rate for entertainment software is 90 percent. The Motion Picture Association of America estimates that two-thirds of motion pictures on video or optical discs in 1998 were illegal copies. The illegal retransmission of satellite programming by cable operators is a growing problem.

The U.S. intellectual property industry estimates 1998 potential trade losses due to piracy of software at $57 million; of motion pictures, $18 million; of sound recordings, $4 million; of books, $39 million.

8. Worker Rights

a. The Right of Association: All workers (including public employees) have a right to form and join trade unions, a right which is exercised without government interference. Trade unions are independent of the government and generally free of political party control. Unions have the right to form or join federations or other labor groupings. Subject to certain procedural restrictions, strikes in the private sector are legal. Unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike.

b. The Right to Organize and Bargain Collectively: The Philippine Constitution guarantees the right to organize and bargain collectively. The Labor Code protects and promotes this right for employees in the private sector and in government-owned or controlled corporations. A similar but more limited right is afforded to employees in most areas of government service. Dismissal of a union official or worker trying to organize a union is considered an unfair labor practice. Labor law and practice are uniform throughout the country, although there have been complaints about some local attempts to maintain "union free/strike free" policies in several of the export processing zones. In the garment industry, the widespread use of short-term, contract workers is an obstacle to workers forming unions or obtaining medical and retirement benefits.

c. Prohibition of Forced or Compulsory Labor: The Philippine Constitution prohibits forced labor and the government effectively enforces this prohibition.

d. Minimum Age for Employment of Children: Philippine law prohibits the employment of children below age 15, with some exceptions involving situations under the direct and sole responsibility of parents or guardians, or in the cinema, theater, radio and television in cases where a child's employment is essential. The Labor Code allows employment for those between the ages of 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor, but forbids employment of persons under 18 years in hazardous work. Government and international organization estimates indicate that some three million children under age 18 are employed in the informal sector of the urban economy, certain fishing practices, port work or as unpaid family workers in rural areas.

e. Acceptable Conditions of Work: A comprehensive set of occupational safety and health standards exists in law. Statistics on actual work-related accidents and illnesses are incomplete, as incidents (especially in regard to agriculture) are underreported.

f. Rights in Sectors with U.S. Investment: U.S. investors in the Philippines generally apply U.S. standards of worker safety and health, in order to meet the requirements of their home-based insurance carriers. Some U.S. firms have resisted efforts by their employees to form unions, with local government support.

Extent of U.S. Investment in Selected Industries -- U.S. Direct Investment Position Abroad on an Historical Cost Basis **--** 1998

(Millions of U.S. Dollars)

Category		Amount
Petroleum		283
Total Manufacturing		1,634
Food & Kindred Products	440	
Chemicals & Allied Products	477	
Primary & Fabricated Metals	33	
Industrial Machinery and Equipment	16	
Electric & Electronic Equipment	483	
Transportation Equipment	0	
Other Manufacturing	184	
Wholesale Trade		172
Banking		288
Finance/Insurance/Real Estate		627
Services		187
Other Industries		2
TOTAL ALL INDUSTRIES		3,192

Source: U.S. Department of Commerce, Bureau of Economic Analysis.